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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/184,043	11/02/1998	HANS HORNAUER	P564-8023	3802

6449 7590 03/03/2004

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

EXAMINER

CEPERLEY, MARY

ART UNIT PAPER NUMBER

1641

DATE MAILED: 03/03/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment

Application No.

09/184,043

Examiner

Mary (Molly) E. Ceperley

Applicant(s)

HORNAUER ET AL

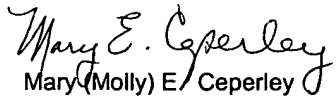
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1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 01 July 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:


Mary (Molly) E. Ceperley
Primary Examiner
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Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



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09/184,043	11/02/1998	HANS HORNAUER	P564-8023	3802

6449 7590 07/01/2003

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EXAMINER

CEPERLEY, MARY

ART UNIT	PAPER NUMBER
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1641

DATE MAILED: 07/01/2003

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**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address: COMMISSIONER FOR PATENTS

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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DATE MAILED:

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Commissioner for Patents

See the attached letter.

Mary (Molly) E. Ceperley
Primary Examiner
Art Unit: 1641

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1) The reply filed on April 16, 2003 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

The response fails to comply with MPEP 714.02 and 37 CFR 1.111(2)(ii)(b) in that it fails to "distinctly and specifically point out the supposed error in the examiner's action" and fails to "reply to every ground of objection and rejection in the prior Office action". Further, the response fails to "present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references."

a) No adequate discussion of the attached diagrams has been provided. The statements that the attached diagrams "show the differences between the claimed invention and the cited prior art" and "the attached diagrams should clear up this issue" do not constitute arguments which point out the specific distinctions which are believed to render the claims patentable over the applied references. Further, although applicants characterize the Herron '492 patent as requiring "activation" (second paragraph of page 3 of the Remarks), there is no discussion of how this limitation differentiates the patent method from that of the method of instant claim 14 which requires only that the "conjugate" be "immobilized". The language of claim 14 includes the case in which the individual members of the "conjugate" are sequentially immobilized on the solid phase. See also the discussion of paragraph **2)** of the January 24, 2003 Office action.

b) Applicants state that the term "test reagent" was changed to "detection reagents" *in a prior response*. However, the record does not indicate the date of this change which does not appear to have been made.

c) Applicants have not specifically addressed the rejections of paragraphs **9) a) – g)** of the last Office action. Applicants' request that the rejections be withdrawn "in view of these amendments" does not adequately address the specifically noted problems. For example:

(i) The amendments to claims 66 and 68 add the term "said preformed conjugate" which has no antecedent basis in independent claim 14.

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(ii) The meaning of the term "an alkylene oxide modified blocker" of claim 73 has not been established (paragraph 9)d) of the last Office action).

(iii) The amendment to claim 77 has not been clarified relative to the discussion of paragraph 9)e) of the last Office action.

(iv) Support has not been provided for the amendment to claim 60 and it is unclear whether or not the "member of the high affinity binding pair" is the moiety attached directly to the solid phase.

d) The Information Disclosure Statement filed April 16, 2003 does not contain the statement required in accordance with 37 CFR 1.97©(1).

2) See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

3) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary E. (Molly) Ceperley whose telephone number is (703) 308-4239. The examiner can normally be reached from 8 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le, can be reached at (703) 305-3399. The fax phone number for responses to be filed BEFORE final rejection is (703) 872-9306. The fax phone number for responses to be filed AFTER final rejection is (703) 872-9307.

Questions which are NOT RELATED TO THE EXAMINATION ON THE MERITS, should be directed to **TC 1600 CUSTOMER SERVICE** at **(703) 308-0198**. Any inquiry of a general nature or relating to

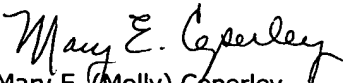
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the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

June 27, 2003


Mary E. (Molly) Ceperley
Primary Examiner
Art Unit 1641